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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 PETER BORREGGINE,)
9 Plaintiff,) CASE NO. C18-0336 RSM
10 v.)
11 PROKARMA, INC., *et al.*,) ORDER DENYING MOTION TO
12 Defendants.) APPOINT COUNSEL
13)
14)

15 THIS MATTER comes before the Court on Plaintiff's Motion to Appoint Counsel. Dkt.
16 #6. Plaintiff asks the Court to appoint counsel in this employment-related case on the basis that
17 he has contacted numerous attorneys and they have declined to take his case. *Id.* Plaintiff has
18 been granted leave to proceed *in forma pauperis* in this matter. Dkt. #4. The Complaint was
19 filed on March 21, 2018, and summonses have recently been issued.
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21 In civil cases, the appointment of counsel to a *pro se* litigant "is a privilege and not a
22 right." *United States ex. Rel. Gardner v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965) (citation
23 omitted). "Appointment of counsel should be allowed only in exceptional cases." *Id.* (citing
24 *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963)). A court must consider together "both the
25 likelihood of success on the merits and the ability of the petitioner to articulate his claims *pro se*
26 in light of the complexity of the legal issues involved." *Weygandt v. Look*, 718 F.2d 952, 954
27 (9th Cir. 1983). Even where the claim is not frivolous, counsel is often unwarranted where the
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1 litigant's chances of success are extremely slim. *See Mars v. Hanberry*, 752 F.2d 254, 256 (6th
2 Cir. 1985).

3 Plaintiff alleges that he suffered discriminatory employment termination on the basis of
4 his age, race and national origin. Dkt. #5. At this early stage of the litigation, the Court cannot
5 find that Plaintiff is entitled to appointment of counsel. It does not yet appear that any exceptional
6 circumstances exist, and there is no record before the Court that would allow the Court to
7 examine whether Plaintiff's claims appear to have merit. Moreover, the Court also notes that
8 prior to filing his suit, Plaintiff made a complaint to the Equal Employment Opportunity
9 Commission ("EEOC"). The EEOC made no determination with respect to the alleged
10 discrimination; rather, it dismissed Plaintiff's claims on the basis that he had signed a severance
11 agreement with a release and waiver. Dkt. #5. Ex. 7. Thus, it may be that this Court will not
12 have jurisdiction over Plaintiff's claims. In addition, Title VII does not provide an automatic
13 right to counsel for employment discrimination claims. *See* 42 U.S.C. § 2000e-5(f)(1). .
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16 Accordingly, the Court hereby finds and ORDERS that Plaintiff's Motion to Appoint
17 Counsel (Dkt. #6) is DENIED without prejudice. This Order does not preclude Plaintiff from re-
18 filing this Motion once a factual record pertaining to his claims has been more fully developed.
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20 DATED this 13th day of April 2018.

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23 RICARDO S. MARTINEZ
24 CHIEF UNITED STATES DISTRICT JUDGE
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